

REMARKS/ARGUMENTS

In Office Actions mailed May 6, 2005 and October 19, 2005, claims 1-47 were rejected under 35 USC 102(e) and 35 USC 103 in view of De La Huerga (U.S. 2002/0084904). In response, Applicants respectfully contend that De La Huerga does not anticipate the claimed invention. MPEP 2136.05 [Overcoming a Rejection Under 35 USC 102(e)] states that:

When a prior U.S. patent or when examining PG-PUB applications (see MPEP §2136), a prior U.S. patent application publication or international application publication, is not a statutory bar, 35 USC 102(e) rejection can be overcome by antedating the filing date (see MPEP §2136.03 regarding critical reference date of 35 USC 102(e) prior art) of the reference by submitting an affidavit or declaration under 37 CFR 1.131 or by submitting an affidavit or declaration under 37 CFR 1.132 establishing that the relevant disclosure is Applicants own work.

The Office Action acknowledges that the prior Declaration of Walter W. Mosher, Jr. (submitted on August 4, 2005) maintains conception at least as early as early 1996. This prior declaration demonstrates that the subject matter of De La Huerga was well known to the Applicants as they had conceived of and been developing this subject matter prior to the De La Huerga filing date.

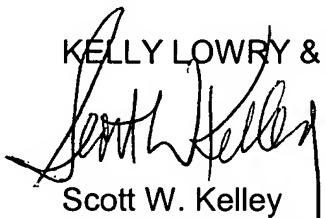
However, the October 19, 2005 Office Action asserts that the prior joint declaration failed to show diligence in reduction to practice between October 1999 and March 18, 2002, the filing date of the parent application to the instant application. The attached supplemental declaration of Walter W. Mosher, Jr. supplements the prior declaration to show diligence in reduction to practice between October 1999 and March 18, 2002.

The inventors conceived of the enhanced identification appliance at least as early as 1996 and engaged in research, development and design over the next several years to diligently reduce the present application to practice.

De La Huerga is not a statutory bar and the 35 USC 102(e) rejection is overcome by antedating the November 13, 2001 filing date of the De La Huerga application and any of its related applications by the joint and supplemental Declarations under 37 CFR 1.131. Thus, the rejections of all pending claims should be withdrawn.

Respectfully submitted,

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Enclosures:

Applicants' Supplemental §131 Declaration

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